

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

**SHIRLEY PRICE**  
*Plaintiff,*

**V.**

**PALOMAR SPECIALTY INSURANCE  
COMPANY**  
*Defendant.*

§  
§  
§  
§  
§  
§  
§  
§  
§  
§  
§

**CIVIL ACTION NO. 4:19-CV-04492  
JURY**

**PALOMAR SPECIALTY INSURANCE COMPANY’S NOTICE OF REMOVAL**

Pursuant to 28 U.S.C. §§ 1441 and 1446, Defendant, PALOMAR SPECIALTY INSURANCE COMPANY (“Palomar” or “Defendant”), files its Notice of Removal to the United States District Court for the Southern District of Texas, Houston Division, on the basis of diversity of citizenship, and amount in controversy, and respectfully shows the following:

**I. PROCEDURAL BACKGROUND**

1. On October 8, 2019, Plaintiff, Shirley Price (“Price” or “Plaintiff”), filed her Original Petition in a case styled *Shirley Price v. Palomar Specialty Insurance Company*; Cause No. 2019-74102, pending in the 295<sup>th</sup> Judicial District Court for Harris County, Texas.

2. Palomar received a copy of this suit on October 15, 2019 and has made an appearance in this case.

3. Palomar files this notice of removal within 30 days of receiving notice of Plaintiff’s Original Petition. *See* 28 U.S.C. § 1446(b). This Notice of Removal is being filed within one year of the commencement of this action. *see id.*

4. All pleadings, process, orders, and other filings in the state court action are attached to this Notice as required by 28 U.S.C. § 1446(a).

5. Attached hereto are copies of the following documents:

- **Exhibit 1:** The state court's Docket Sheet;
- **Exhibit 2:** Plaintiff's Original Petition;
- **Exhibit 3:** Citation served upon Palomar;
- **Exhibit 4:** Defendant's Verified Original Answer and Plea in Abatement;
- **Exhibit 5:** List of Parties and Counsel.

## **II. BASES FOR REMOVAL**

6. Removal is proper based on diversity of citizenship under 28 U.S.C. §§ 1332(a)(1), 1441(a), and 1446.

### **A. Plaintiff and Defendant Palomar are diverse.**

7. **Plaintiff**, Shirley Price, is an individual residing in Harris County, Texas.

8. **Defendant**, Palomar Specialty Insurance Company, is, and was at the time the lawsuit was filed, an Oregon domiciled insurance company with its principal place of business in California. Palomar is wholly owned by Palomar Insurance Holdings, Inc., a Delaware Company. Palomar is therefore not a citizen of the State of Texas for diversity purposes.

9. Thus, this lawsuit is between citizens of different states, and there is complete diversity of citizenship between Plaintiff and Defendant Palomar.

### **B. The Amount in Controversy Exceeds the Jurisdictional Requirements for Subject Matter Jurisdiction.**

10. In determining the amount in controversy, the court may consider "policy limits... penalties, statutory damages, and punitive damages." *St. Paul Reinsurance Co., Ltd. v.*

*Greenberg*, 134 F.3d 1250, 1253 (5th Cir. 1998); *see Ray v. State Farm Lloyds*, No. CIV.A.3:98-CV-1288-G, 1999 WL 151667, at \* 2-3 (N.D. Tex. Mar. 10, 1999) (finding a sufficient amount in controversy in plaintiff's case against their insurance company for breach of contract, fraud, negligence, gross negligence, bad faith, violations of the Texas Insurance Code, violations of the Texas Deceptive Trade Practices Act, and mental anguish); *Fairmont Travel, Inc. v. George S. May Int'l Co.*, 75 F. Supp.2d 666, 668 (S.D. Tex. 1999) (considering DTPA claims and the potential for recovery of punitive damages for the amount in controversy determination); *Chittick v. Farmers Ins. Exch.*, 844 F. Supp. 1153, 1155 (S.D. Tex. 1994) (finding a sufficient amount in controversy after considering the nature of the claims, the types of damages sought and the presumed net worth of the defendant in a claim brought by the insureds against their insurance company for actual and punitive damages arising from a claim they made for roof damages).

11. Plaintiff alleges that Defendant is liable under a residential insurance policy because Plaintiff made a claim under that policy and Defendant wrongfully adjusted and underpaid Plaintiff's claim. This is a civil action in which the claim for relief Paragraph 2 of Plaintiff's petition indicates "Plaintiff seeks monetary relief over \$200,000.00 but not more than \$1,000,000.00." This evidence demonstrates that the amount in controversy in this case exceeds the jurisdictional requirements.

### **III. THIS REMOVAL IS PROCEDURALLY CORRECT**

12. Palomar received notice of this lawsuit on October 15, 2019 when Palomar was served. Thus, Palomar is filing this Notice within the 30-day time period required by 28 U.S.C. § 1446(b).

13. Venue is proper in this District and Division under 28 U.S.C. §1446(a) because i) this District and Division include the county in which the state action has been pending, and

ii) a substantial part of the events giving rise to Plaintiff's claims allegedly occurred in this District and Division.

14. Pursuant to 28 U.S.C. §1446(a), all pleadings, process, orders, and all other filings in the state court action are attached to this Notice.

15. Promptly after Palomar files this Notice of Removal, written notice of the filing will be given to Plaintiff pursuant to 28 U.S.C. §1446(d).

16. Promptly after Palomar files this Notice of Removal, a true and correct copy of same will be filed with the Clerk of the Harris County District Court pursuant to 28 U.S.C. §1446(d).

17. Based upon the foregoing, the exhibits submitted in support of this removal, and other documents filed contemporaneously with this Notice of Removal, Defendant, Palomar Specialty Insurance Company, hereby removes this case to this Court for trial and determination.

Respectfully submitted,

By: /s/ George Arnold  
**George H. Arnold – Attorney in Charge**  
State Bar No. 00783559  
[garnold@thompsoncoe.com](mailto:garnold@thompsoncoe.com)  
**Susan Sparks Usery**  
State Bar No. 18880100  
[susery@thompsoncoe.com](mailto:susery@thompsoncoe.com)  
THOMPSON, COE, COUSINS & IRONS, LLP  
One Riverway, Suite 1400  
Houston, Texas 77056  
Telephone: (713) 403-8210  
Facsimile: (713) 403-8299

and

**Michael L. Schneiderman**  
State Bar No. 24033043  
[mschneiderman@postonlawfirmpllc.com](mailto:mschneiderman@postonlawfirmpllc.com)  
POSTON LAW FIRM, PLLC  
6745 Calmont Avenue  
Fort Worth, Texas 76116  
Telephone: (817) 697-3492  
Facsimile: (817) 697-3677

**Attorneys for Defendant**  
**PALOMAR SPECIALTY INS. CO.**

**CERTIFICATE OF SERVICE**

This is to certify that on the 14th day of November, 2019, a true and correct copy of the foregoing was delivered to the following known counsel of record in accordance with the Federal Rules of Civil Procedure:

Danny Ray Scott  
SCOTT LAW OFFICES, PC  
PO Box 53358  
Houston, TX 77052  
[casenotifications@scottlawyers.com](mailto:casenotifications@scottlawyers.com)

Mickey L. Washington  
WASHINGTON & ASSOCIATES, PLLC  
2019 Wichita St.  
Houston, TX 77004  
[mw@mickeywashington.com](mailto:mw@mickeywashington.com)

*Attorneys for Plaintiff*

/s/ George Arnold  
George Arnold